

# Staff Report



Corporate Services Department

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**REPORT TO:** Finance and Corporate Services Committee

**DATE OF MEETING:** December 12, 2022

**SUBMITTED BY:** Amanda Fusco, Director, Legislated Services and City Clerk, 519-741-2200 ext. 7809

**PREPARED BY:** Dianna Saunderson, Manager, Council and Committee Services and Deputy Clerk, 519-741-2200 ext. 7278

**WARD(S) INVOLVED:** N/A

**DATE OF REPORT:** November 25, 2022

**REPORT NO.:** COR-2022-498

**SUBJECT:** Development Charges, Section 20 Dispute and Hearing Process

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## RECOMMENDATION:

**That the Finance and Corporate Services Committee be delegated the authority of Council to conduct hearings relating to complaints made under section 20 of the Development Charges Act, 1997; and further,**

**That the hearings for section 20 Development Charges disputes be conducted as the per the process as outlined in Corporate Services Department report COR-2022-498.**

## REPORT HIGHLIGHTS:

- The purpose of this report is to delegate the authority of Council to the Finance and Corporate Services Committee for the purpose of conducting complaint hearings made under Section 20 of the Development Charges Act, 1997.
- Staff will establish a hearing process, which will include providing the legislated notice to the complainant so they may attend to represent their complaint.
- This report supports the delivery of core services.

## BACKGROUND:

The Development Charges Act, 1997 enables municipalities in the province to enact by-laws to impose development charges against lands to be developed to pay for growth-related capital costs for municipal services such as roads, water, wastewater, public works, recreation, police and fire protection.

On October 27, 2022, Gowling WLG on behalf of McLean-Peister Limited submitted a complaint to the City of Kitchener and the Region of Waterloo, pursuant to Section 20(1) of the Development Charges Act, 1997 (the “DC Act”). The City acknowledged receipt of the complaint on November 3, 2022, noting the complaint did constitute a statutory complaint under section

The purpose of this report is to outline the process that is required to be established by the DC Act and Council for the Complaint.

## **REPORT:**

Section 20 (4) of the DC Act requires Council to hold a hearing into the complaint and shall give the complainant an opportunity to make representations at the hearing. Given the infrequent need to date, no formal hearing process has been established by the City of Kitchener to address complaints received pursuant to section 20 of the DC Act.

To address the current complaint and all future complaints received pursuant to section 20 of the DC Act, staff propose that the Finance and Corporate Services Committee be delegated the authority to conduct the hearing on behalf of City Council.

The following is proposed to be the process for which the hearings shall be conducted, in accordance with the DC Act:

1. The City shall receive a complaint in writing within 90 days after the day the development charge, or any part of it, is payable. The complaint must state the complainant's name, the address where notice can be given to the complainant and the reasons for the complaint.
2. The Finance and Corporate Services Committee, which through this report will be delegated the authority to conduct the hearing process, will be scheduled for the required hearing.
3. The Clerk of the municipality shall mail a notice of hearing to the complainant a minimum of 14 days prior to the hearing.
4. Staff through a staff report included on the Committee agenda, will respond to the complaint and make a formal recommendation to Finance and Corporate Services Committee.
5. The Finance and Corporate Services Committee Chair will note the meeting is being held as a formal hearing to the DC Act and shall comply with the principles of procedural fairness including providing the Complainant with an opportunity to provide representation. The Finance and Corporate Services Committee will rely on the provisions outlined in Chapter 25 (Council Procedure) of the City of Kitchener Municipal Code to conduct the hearing.
6. The Finance and Corporate Services Committee, after hearing any additional evidence and submissions from the complaint, may dismiss the complaint or rectify any incorrect determination or error that was subject to the complaint. The Committee when rendering their decision must find that there has been an incorrect determination or error in the application of the DC By-law before it grants the requested remedy.
7. The decision of the Finance and Corporate Services Committee would then be forwarded to the next subsequent City Council meeting to be ratified and considered final and binding.
8. Section 22 of the DC Act provides that the complaint can appeal Council's decision to the Ontario Land Tribunal.

Staff have consulted with the Region of Waterloo and have developed the foregoing hearing process in alignment with that of the Region of Waterloo. The Regional Development Charges

By-law delegates Regional Council's authority for the conducting hearings under section 20 of the DC Act to their Administration and Finance Committee.

**STRATEGIC PLAN ALIGNMENT:**

This report supports the delivery of core services.

**FINANCIAL IMPLICATIONS:**

Capital Budget – The recommendation has no impact on the Capital Budget.

Operating Budget – The recommendation has no impact on the Operating Budget.

**COMMUNITY ENGAGEMENT:**

INFORM – This report has been posted to the City's website with the agenda in advance of the council / committee meeting.

**PREVIOUS REPORTS/AUTHORITIES:**

There are no previous reports/authorities related to this matter.

**APPROVED BY:** Victoria Raab, General Manager, Corporate Services